IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1126 OF 2006
IN
LONG CAUSE SUIT NO.2909 OF 1999

Akram Hussain ...Appellant
Vs.
The Municipal Corpn of Greater Bombay ...Respondents

Mr.P.K.Dhakepalkar Advocate i/b. Mr.R.R.Sharma Advocate for Appellant.
Mr.J.J.Xavier Advocate for Respondents

CORAM: SMT.ROSHAN DALVI,J.
DATED: 11TH JUNE, 2007

P.C.

1. The Appellant filed Suit No.2909 of 1999 in the Bombay City Civil Court. He challenged notice issued under Section 351 of the BMC Act in respect of his structure on 9th April, 1999. The notice is issued in his name showing his structure on CTS No.156.

2. He claims to be the tenant. He has relied upon rent receipts from 1994 onwards.

3. He replied to the notice relying upon an assessment bill made by the BMC under No.L-3962 in the name of the owner of the premises. The assessment bill cannot be in the name

of the Appellant, who is only an occupant or a tenant. The assessment bill shows the assessments from 1969, in respect of the structure assessed under L-3962.

4. It is an admitted position that CTS No.156 is declared as slum. Consequently in CTS No.156 all the structures which were in existence prior to 1995 are required to be protected.

5. The Appellant claims that his structure is assessed under No.L-3962. Since that is shown to be assessed from 1969 and is admittedly in CTS No.156, the structure assessed under No.L-3962 deserves to be protected.

6. Both Advocates agree that the only equitable order which can be passed in this Appeal is that the structure under assessment No.L-3962 shall not be demolished by the MMC order accordingly. This order does not apply to any other structure of the appellant. Save and except the above, the impugned order dated 21st March, 2006 dismissing the Appellant's suit is confirmed.

7. The Appeal is disposed of accordingly.

(SMT. ROSHAN DALVI, J.)